

AMENDED IN SENATE MARCH 25, 2014

SENATE BILL

No. 992

Introduced by Senator Nielsen
(Coauthor: Senator Galgiani)

February 12, 2014

An act to amend Section ~~4775~~ 4735 of the Civil Code, relating to common interest developments, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 992, as amended, Nielsen. ~~Maintenance of exclusive areas: fines.~~
Common interest developments: property use and maintenance.

The Davis-Stirling Common Interest Development Act governs the management and operation of common interest developments. Existing law provides that, unless otherwise provided in the common interest development declaration, the association is responsible for repairing, replacing, or maintaining the common area, other than exclusive use common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to that interest. Existing law makes void and unenforceable any provision of the governing documents of a common interest development or association that prohibits use of low water-using plants, or prohibits or restricts compliance with water-efficient landscape ordinances or regulations on the use of water, as specified.

This bill would prohibit an association from imposing a fine or assessment on separate interest owners for yard maintenance issues related to under-watered plants and lawns during any period for which the Governor has declared a state of emergency due to drought.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The Davis-Stirling Common Interest Development Act governs the management and operation of common interest developments. Existing law also set forth the duties and responsibilities of the association and the owners of the separate interests with regard to maintenance and repair of common and exclusive use areas, as defined. Unless otherwise provided in the common interest development declaration, the association is responsible for maintaining, repairing, and replacing the common area, other than the exclusive use common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to that interest. An association may impose a fine or assessment upon a separate interest owner for failure to maintain his or her property in accordance with the association rules for that development.~~

~~This bill would prohibit an association from imposing a fine or assessment on separate interest owners for yard maintenance issues related to under-watered plants and lawns during any period for which the Governor has declared a state of emergency due to drought.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4735 of the Civil Code is amended to
- 2 read:
- 3 4735. (a) Notwithstanding any other law, a provision of the
- 4 governing documents shall be void and unenforceable if it does
- 5 any of the following:
- 6 (1) Prohibits, or includes conditions that have the effect of
- 7 prohibiting, the use of low water-using plants as a group.
- 8 (2) Has the effect of prohibiting or restricting compliance with
- 9 either of the following:
- 10 (A) A water-efficient landscape ordinance adopted or in effect
- 11 pursuant to subdivision (c) of Section 65595 of the Government
- 12 Code.
- 13 (B) Any regulation or restriction on the use of water adopted
- 14 pursuant to Section 353 or 375 of the Water Code.
- 15 (b) This section shall not prohibit an association from applying
- 16 landscaping rules established in the governing documents, to the

1 extent the rules fully conform with the requirements of subdivision
2 (a).

3 *(c) Notwithstanding any other provision of this part, an*
4 *association shall not impose a fine or assessment against an owner*
5 *of a separate interest for yard maintenance issues related to*
6 *under-watered plants and lawns during any period for which the*
7 *Governor has declared a state of emergency due to drought.*

8 *SEC. 2. This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety within*
10 *the meaning of Article IV of the Constitution and shall go into*
11 *immediate effect. The facts constituting the necessity are:*

12 *The Governor has proclaimed a state of emergency to exist in*
13 *California due to current drought conditions. In order to respond*
14 *to these current drought conditions as quickly as possible, it is*
15 *necessary for this act to take effect immediately.*

16 ~~SECTION 1. Section 4775 of the Civil Code is amended to~~
17 ~~read:~~

18 ~~4775. (a) Unless otherwise provided in the declaration of a~~
19 ~~common interest development, the association is responsible for~~
20 ~~repairing, replacing, or maintaining the common area, other than~~
21 ~~exclusive use common area, and the owner of each separate interest~~
22 ~~is responsible for maintaining that separate interest and any~~
23 ~~exclusive use common area appurtenant to the separate interest.~~

24 ~~(b) The costs of temporary relocation during the repair and~~
25 ~~maintenance of the areas within the responsibility of the association~~
26 ~~shall be borne by the owner of the separate interest affected.~~

27 ~~(c) Notwithstanding any other provision of this part, an~~
28 ~~association shall not impose a fine or assessment against an owner~~
29 ~~of a separate interest for yard maintenance issues related to~~
30 ~~under-watered plants and lawns during any period for which the~~
31 ~~Governor has declared a state of emergency due to drought.~~